



**Convention against Torture
and Other Cruel, Inhuman
or Degrading Treatment
or Punishment**

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Committee against Torture

Concluding observations on the initial report of Timor-Leste

Addendum

**Information received from Timor-Leste on follow-up to the
concluding observations***

[Date received: 18 December 2018]

* The present document is being issued without formal editing.



Introduction

1. After Timor-Leste submitted its initial report on the International Convention against Torture and Mistreatment (CAT) in 2016 the State of Timor-Leste was invited to participate in an interactive dialogue with the CAT Committee. During the interactive dialogue between the Timor-Leste delegation and the CAT Committee on 22 and 23 November 2017, recommendations were given to Timor-Leste and the State Party was asked to provide information within one year (by 6 December 2018), namely about the implementation of these recommendations according to paragraphs 9 a, b, c & d, 13 b and 17 a. As a State Party to this convention, the State of Timor-Leste is meeting its obligation to submit a short report on the implementation of the aforementioned recommendations based on paragraph 48 of the initial report from Timor-Leste on Final Observations.

Paragraph 9 (a): The Committee notes that the State party's delegation expressed the view that it is in the State party's national interest to maintain good relations with Indonesia, and that the national approach to addressing past violations reflected this concern. While appreciating the context, the prohibition against torture is non-derogable and that the State party's obligations under the Convention require it to take further action to prevent impunity for perpetrators and ensure redress for the many victims of torture residing in the State party. The Committee calls upon the State party to:

- (a) **Ensure the wide public dissemination and full and effective implementation of the recommendations of the Commission for Reception, Truth and Reconciliation and the Commission of Truth and Friendship regarding victims' rights to justice, truth and reparation;**

2. Since the establishment of the National Centre CHEGA (CNC), a range of work has been carried out and further work is planned in relation to the mandate that sets out the work of the CNC which is as follows:¹

- In 2017, electronic media, leaflets, the media, radio on recommendations including the role and competency of the CNC and also awareness raising on national days or historic days such as 7 December, 20 May and 12 November, the Marabia Massacre and Liquica Massacre, Black September Suai and Facebook page. Also, awareness raising in three municipalities, namely Bobonaro, Manufahi and Oecusse in 2017. There is a plan to carry out awareness rising in all municipalities, but still waiting for funds. This awareness raising will also involve young people in the process so that they have knowledge about our past history;
- The CNC also has a plan to carry out activities to identify historical places in Timor-Leste "One community with one history" starting with a pilot in Bairo-Pite Village, and in the future this will cover all municipalities;
- The concept of the Reparations Law has been changed because this law has expired in the National Parliament, and the new concept is to establish a solidarity fund to support survivors and a working group has been established involving people from the Ministry of Education, the Ministry of Social Solidarity and Inclusion, the Ministry of Foreign Affairs and Cooperation, civil society and the Indonesian Embassy to decide on an institution that will manage the solidarity fund. To ensure proper and responsible implementation, strict criteria will also be developed to identify vulnerable persons who truly deserve the benefits from the aforementioned solidarity fund. Also, advocacy will be carried out at the ministerial level, especially those ministries that are linked to the recommendations in the CTF report and the CAVR report. To ensure that all of these processes follow the rules, the ministries will be monitored to oversee the implementation of recommendations (Ministry of the Interior, Ministry for Tourism, Ministry of Justice, Ministry of Education, Ministry of Social Solidarity, Ministry of Foreign Affairs and Cooperation). Finally to make the recommendations a reality, the curriculum of the PNTL and the F-FDTL

¹ CNC.

will include information about CHEGA with the aim that these two institutions will understand about incidents that occurred in the past.

- (b) **Take effective measures to allow the Special Panel for Serious Crimes to be reconvened and for prosecutions involving allegations of crimes of torture including sexual violence, and enforced disappearances to resume;**

3. In relation to serious crimes that occurred in the past, there is no Special Panel, but the national judges that work in the tribunal can conduct trials when suspect enter Timor-Leste and are arrested.

- (c) **Seek cooperation with the Indonesian authorities in extraditing persons for whom the Special Panels for Serious Crimes issued arrest warrants for crimes including torture, and enhance efforts to ensure criminal accountability for perpetrators for crimes committed in the past, and particularly for those with the greatest responsibility for their commission;**

4. The State of Timor-Leste and the State of Indonesia have continued to carry out efforts to discuss issues linked to serious crimes that occurred in the past. It is acknowledged that there has been no extradition of perpetrators of serious crimes to be held accountable for their actions that took place in the past. However, these two states have continued to take steps including the establishment of the Commission of Truth and Friendship (CTF) and high level meetings between the State of Timor-Leste and the State of Indonesia to discuss serious crimes that occurred in the past. However, these two countries established the CTF and have continued to take steps because political issues involve particular consideration, but justice needs to continue in accordance with the law.

- (d) **Consider including the database on victims, alleged perpetrators and witnesses compiled by the UN's Serious Crimes Investigation Team (SCIT) and given to the national authorities in 2013 in a publicly accessible national archive.**

5. The results of investigations from the UN Serious Crimes Investigations Team have been handed over by the UN to the national authorities. This information can be accessed in relation to issues linked to past serious crimes but only judicial actors have access to the information when a perpetrator of a serious crime is arrested in order to hold a trial. This information is not available to the public because of judicial confidentiality.

Paragraph 13 (b): Follow up on the progress of investigations concerning recent allegations of torture and ill-treatment by the police and military, and in particular in the above-mentioned cases in Lalulai, Oecusse, and Maliana, and provide information concerning the outcome of these investigations, including whether they resulted in prosecutions, and whether the victims obtained redress.

6. The incident that occurred in Lalulai-Laga-Baucau was committed by PNTL officers, and the matter has been processed and decided with disciplinary or administrative measures imposed and the court has issued a final decision in criminal proceedings. Also, regarding the incident that occurred in Maliana stadium that was committed by PNTL officers, the suspects have been investigated and witnesses and victims have been interviewed, however disciplinary proceedings against the PNTL officers are suspended awaiting a final decision from the courts/the case is now before the courts.²

7. Training for PNTL officers in 2018 focused on PNTL officers working in the Department of Justice of the PNTL at the national level, however no training yet for PNTL officers working at the municipal level because of a lack of funds. This is because PNTL officers working at the Criminal Investigation Service always receive routine training each year in Timor-Leste and overseas.

8. Compensation to victims has not been provided by PNTL because this is not the competence of the PNTL, but rather the responsibility of the Public Prosecution Service or the courts. Also, normally compensation is negotiated between the perpetrators and victims.

² Information provided by the Head of the PNTL Department of Justice.

When there is a complaint about a crime, the PNTL always conducts investigations and the PNTL always participates to assist the process.

Paragraph 17 (a): Ensure that all complaints of torture and ill-treatment are promptly investigated in an impartial manner by an independent body and that there is no institutional or hierarchical relationship between the body's investigators and suspected perpetrators of such acts, and strengthen the capacity of the Police Forensic and Criminal Investigations Unit to undertake such investigations.

9. The government, through the Ministry of Justice has established the Police Forensic and Criminal Investigations (PSIK) with the important role of “conducting investigations into cases of torture and maltreatment” as set out in Article 6 “Criminal Investigations” that deals with the criminal investigation process, and this law gives competence to the PSIK to investigate the following crimes: e) Torture or other forms of cruel, degrading or inhuman treatment.³

10. When the results of the investigation are available the PSIK will provide them to the Public Prosecution Service which is responsible for criminal actions to prepare charges and present them to the courts for final decision or trial. The State must ensure that the competent authorities conduct impartial and prompt investigations when there are reasons to believe that a person has committed torture and mistreatment. There are authorities that have the competence to initiate impartial criminal and disciplinary investigations when there is an allegation of torture and mistreatment because the law states that the authorities need to be impartial when they conduct investigations as set out in the Article 48.1 of the Criminal Procedure Code, which states that “The Public Prosecution Service is the holder of the criminal action and must cooperate with the court in disclosing the truth and upholding rights by complying in every procedural intervention with legality and objectivity”.⁴ Also Article 52.2 of the Criminal Procedure Code states that “It is also incumbent on the Police, to assist, upon request, judicial authorities in achieving the goal of the proceeding, particularly the Public Prosecution Service during the inquiry”.⁵

³ Decree-Law No. 15/14, PSIK, Article 6.

⁴ CPP, Article 48.1.

⁵ CPP, Article 52.2.